## SUNITED STATES DISTRICT COURT SAN ANTONIO DIVISION

July 03, 2025 CLERK, U.S. DISTRICT COURT WESTERN DISTRICT OF TEXAS

BY:	NM
	DEDITY

ESAU ERNEST CHICAS ORTEGA, Petitioner, v. KRISTI NOEM et al.,

Respondents.

CIVIL NO. SA-25-CV-689-OLG

## ORDER

Pending before the Court is Respondents' Response in Opposition to Petitioner's Motion for Temporary Restraining Order and/or Preliminary Injunctive Relief, wherein Respondents argue that the "Court lacks jurisdiction to grant the relief that Petitioner seeks." Dkt. No. 8 at 2. Specifically, Respondents argue that the jurisdiction stripping statute deprives the Court of jurisdiction to decide this case. Id. at 2, 5; see 8 U.S.C. § 1252(g). Respondents also argue that Petitioner's claim under Zadvvdas v. Davis, 533 U.S. 678 (2001), is premature because he was only recently detained incident to his forthcoming removal. See Dkt. No. 8 at 6–9.

However, Respondents do not substantively address Petitioner's claim that he is entitled to some measure of due process prior to his removal to a third country. Compare Dkt. No. 1 at 4–5, with Dkt. No. 8 at 8–10. Multiple district courts have found that, notwithstanding the jurisdiction stripping statute, federal district courts maintain jurisdiction to review such a claim. See D.V.D. v. U.S. Dep't of Homeland Sec., — F. Supp. 3d — (D. Mass. 2025) ("This Court may review the purely legal question of whether the Constitution and relevant statutes require notice and an opportunity to be heard prior to removal of an alien to a third country."), stayed pending appeal, — S. Ct. — (2025); E.D.Q.C. v. Stewart Det. Ctr., — F. Supp. 3d — (M.D. Ga. 2025) ("As the

district court has done in *D.V.D.*, this Court will not construe § 1252(g) to immunize an unlawful practice from judicial review." (citation modified)).

IT IS THEREFORE ORDERED that Respondents shall file a supplemental response addressing this issue no later than Monday, July 7, 2025.

IT IS SO ORDERED.

**SIGNED** this 3rd day of July, 2025.

ORLANDO L. GARCIA UNITED STATES DISTRICT JUDGE